

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

TRUE THE VOTE, *et al.*

PLAINTIFFS

V.

CIVIL ACTION NO.: 3:14-CV-532-NFA

THE HONORABLE DELBERT HOSEMANN,
in his official capacity, as Secretary of State for the
State of Mississippi, *et al.*,

DEFENDANTS

**DEFENDANT LAUDERDALE COUNTY
MISSISSIPPI ELECTION COMMISSION'S
FIRST SUPPLEMENT TO
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendant, Lauderdale County Mississippi Election Commission ("Lauderdale Commission") through counsel, and files this its First Supplement to Motion for Summary Judgment and respectfully shows unto the Court that there is no genuine issue as to any material fact and it is entitled to judgment as a matter of law for the following reasons:

1. The Lauderdale Commission incorporates the contents of its initial Motion for Summary Judgment filed on August 6, 2014.
2. The Lauderdale Commission supplements its Motion as set forth below.
3. As the Lauderdale Commission's affidavits collectively confirm in detail, when the True the Vote volunteers (John and Karen Hobson) visited the Lauderdale County Courthouse on July 7, 2014, representatives from the McDaniel and Cochran

campaigns were inspecting the contents of the ballot boxes from the June 24, 2014 primary run-off election. *See* Exhibit "A": Affidavit of Tina Moore at paras. 3-5; Exhibit "B": Affidavit of Wallace Heggie at paras 3-6; Exhibit "C": Affidavit of Awana Simmons at paras 3-5; Exhibit "D": Affidavit of Donna Jill Johnson at paras 2-5. After they were not permitted to participate in the ballot box inspection in accordance with state law, the Hobsons submitted a single written document request (which did not include a request for pollbooks), which has been completely fulfilled without complaint from the Hobsons or anyone on their behalf. *See* Exhibit "A": Affidavit of Tina Moore at paras. 6-8; Exhibit "B": Affidavit of Wallace Heggie at paras. 7-9; Exhibit "C": Affidavit of Awana Simmons at paras. 5-9; Exhibit "D": Affidavit of Donna Jill Johnson at paras. 6-17; and Exhibit "E": Affidavit of Jeff Tate at paras. 3-11. Exhibit "1" to both the Affidavits of Donna Jill Johnson and Jeff Tate is a true and correct copy of the records request form which includes a one- page attachment, wherein the Hobsons asked for the following:

Electronic file from the June 3rd Primary (By Precinct)

-List of all the Republican Voters who voted by Precinct:

-in person on Election Day
-via absentee ballot

-List of all of the Democratic Voters who voted by Precinct:

-in person on Election Day
-via absentee ballot

Electronic file from the June 24th Runoff (By Precinct)

-List of all the Republican Voters who voted by Precinct:

-in person on Election Day
-via absentee ballot

-List of all of the Democratic Voters who voted by Precinct:

-in person on Election Day
-via absentee ballot

See Exhibit “D”: Affidavit of Donna Jill Johnson at paras. 6-17; and Exhibit “E”:

Affidavit of Jeff Tate at paras. 3-11. The response to the request was made in the form of 4 electronic (Excel spreadsheets) files provided to an email address furnished by the Hobsons. *See* Exhibit “D”: Affidavit of Donna Jill Johnson at paras. 6-10, 13; and Exhibit “E”: Affidavit of Jeff Tate at paras. 5-8. To date, the Circuit Clerk has received no complaint or concern, whether written or oral, from the Hobsons or any other person claiming that the actual response to the Hobsons’ request was inadequate. *See* Exhibit “D”: Affidavit of Donna Jill Johnson at paras. 10. Further, since July 7, 2014, neither the Hobsons nor any other representative of the True The Vote has returned to either the office of the Lauderdale County Circuit Clerk or the office of the Lauderdale County Election Commission. *See* Exhibit “A”: Affidavit of Tina Moore at para 8; Exhibit “B”: Affidavit of Wallace Heggie at para 9; Exhibit “C”: Affidavit of Awana Simmons at para. 9; Exhibit “D”: Affidavit of Donna Jill Johnson at para. 17; and Exhibit “E”: Affidavit of Jeff Tate at para. 11. Finally it is undisputed that as of the time of filing of this First

Supplement to Motion for Summary Judgment, the Hobson's designated recipient has yet to download ANY of the 4 Excel spreadsheets (approximately 4,697 total pages) which were provided to him. This undisputed fact repudiates any assertion that the Plaintiffs truly needed any documents from Lauderdale County in an immediate fashion.

3. Next as previously stated, the Lauderdale Commission incorporate herein by reference the briefs submitted by its Co-Defendants in connection with the injunctive relief claims on the issues of law such as whether certain documents are records subject to NVRA and whether NVRA allows redaction of records, rather than burden the Court with making those again herein. The Lauderdale Commission specifically incorporates the assertions of The Republican Party of Mississippi set forth in its Memorandum Brief. *See* ECF No. 88.

4. Finally, the Lauderdale Commission incorporates the Response in Opposition Plaintiff's Motion for Temporary Restraining Order [ECF No. 92] and Joinder to Memorandum in Opposition to Plaintiff's Motion for Temporary Restraining Order [ECF No. 93] filed on August 8, 2014 by the Honorable Delbert Hosemann in his capacity as Secretary of State for the State of Mississippi.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Lauderdale Commission respectfully submits that it is entitled to judgment as a matter of law and that the Plaintiffs' claims should be dismissed. Lauderdale Commission requests such other and further relief as the Court may deem just and proper under the circumstances.

This the 9th day of August, 2014.

Respectfully submitted,

**LAUDERDALE COUNTY MISSISSIPPI
ELECTION COMMISSION, DEFENDANT**

BY: /s/ Lee Thaggard

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CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

All counsel of record

and I hereby certify that I have mailed by United States Postal Service the document to the following non-ECF participants:

None.

Respectfully submitted this the 9th day of August, 2014.

/s/ Lee Thaggard

Lee Thaggard